IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9228 OF 2004

Mr.Navin Bhanudas Kamble ..Petitioner

V/s.

State of Maharashtra & Anr. ..Respondents

Mr.R.K.Mendadkar alongwith Ms.Helen Koli-Mandlik for the petitioner.

Mr.R.D.Rane, Assistant Government Pleader for Respondent No.1.

Mr.A.V.Anturkar i/by Ms.V.A.Bakre-Shastry for Respondent No.2.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 19.4.2005.

PC

. Heard the learned Counsel for the petitioner and perused the Writ petition and the documents annexed thereto.

2. The petitioner was appointed on the post of Octroi Clerk in the Municipal Council vide order of appointment dated 1.4.1995 subject to the petitioner's production of caste validity certificate issued by the Schedule Tribe Certificate Scrutiny Committee appointed by the Government. The petitioner at the time of his appointment claimed to

be belonging to Mahadeo koli. The petitioner's caste verification was thus referred to Scheduled Tribe Certificate Scrutiny Committee. The caste scrutiny committee held that petitioner did not belong to Mahadeo Koli and invalidated his caste claim. Upon invalidation of petitioner's caste claim, by order dated 8.10.1996, the petitioner was terminated from service. The petitioner preferred Writ petition being Writ petition No.209 of 1997 before this Court. Before this court, the petitioner gave up his caste claim that he belonged to Mahadeo Koli-ST but sought benefit of the Government Resolution dated 3.7.1995. On the basis of the Government Resolution dated 3.7.1995 the Division Bench of this Court in its order dated 18.2.1997 directed the Municipal Council, Vai to reinstate the petitioner in terms of Government Resolution dated 3.7.1995. It was also clarified in the order that petitioner shall not be entitled to the salary during the period of termination. Pursuant to the order of the High Court dated 18.2.1997, the Municipal Council, Vai issued appointment order on 29.4.1997. By the said order the petitioner was given appointment afresh on the basic pay of Rs.950 in the pay scale of Rs.950-20-1150-EB-25-1500 plus allowances admissible as per the Government rules with effect from 2.5.1997 subject to the conditions stated in the

order.

3. The petitioner joined the service pursuant to the appointment order dated 29.4.1997. The petitioner through his Advocate gave a notice to the Municipal Council, Vai on 1.11.2003 and sought continuity of service with effect from 1.4.1995 i.e. his initial appointment. The petitioner's claim for continuity of service came to be rejected by the Municipal Council, Vai and hence the present Writ petition.

4. The Writ petition does not deserve to be admitted for more than one reason. Firstly, this Court in its order dated 18.2.1997 clarified that the petitioner shall not be entitled to the salary during the period he was terminated until reinstated. There is no specific order of continuity of service by this Court. It can therefore, be said that in the order dated 18.2.1997, this Court had not granted any continuity of service. Secondly, the petitioner was given benefit of the Government Resolution dated 3.7.1995 by this Court in its order dated 18.2.1997 since the petitioner gave up his claim that he belong to Schedule Tribe-Mahadeo Koli. The learned Counsel for the petitioner could not show from the

Government Resolution dated 3.7.1995 that the petitioner was entitled to any continuity of service. Last but not the list, pursuant to the order dated 18.2.1997 the Municipal Council Vai issued the order on 29.4.1997. The order clearly stated that the petitioner was given appointment afresh. The petitioner joined the service as per the appointment order dated 29.4.1997 and at no point of time until the notice was given by the petitioner through his Advocate on 1.11.2003, any grievance was raised about the continuity of service. In other words, almost after six years of his joining the service pursuant to the order dated 29.4.1997, the grievance was raised by the petitioner about continuity of service. The grievance so belatedly raised, besides that there is no merit, even otherwise did not deserve to be entertained after long lapse of time. Incidently, it may be noticed that even in the present Writ petition no grievance has been made with regard to the appointment order dated 29.4.1997 giving fresh appointment to the petitioner.

5. Writ petition is accordingly, dismissed in limine.

(R.M.LODHA,J)

(R.S.MOHITE,J)